

**Baker&Hostetler LLP**

45 Rockefeller Plaza  
New York, NY 10111

T 212.589.4200  
F 212.589.4201  
www.bakerlaw.com

David J. Sheehan  
direct dial: 212.589.4616  
dsheehan@bakerlaw.com

March 31, 2020

**VIA ECF**

Honorable Analisa Torres  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, New York 10007-1312

Re: *Picard v. ABN AMRO Bank N.V. (presently known as The Royal Bank of Scotland, N.V.)*,  
Case No. 1:17-CV-07476 (AT) - Status Update

Dear Judge Torres:

We are counsel to Irving H. Picard, as trustee (“Trustee”) for the liquidation of Bernard L. Madoff Investment Securities LLC under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa et seq., and the substantively consolidated chapter 7 estate of Bernard L. Madoff. In staying the above-referenced action, the Court requested that the Trustee and defendant ABN AMRO Bank N.V. (presently known as The Royal Bank of Scotland, N.V.) submit a joint letter every 90 days on the status of the Trustee’s appeal to the United States Court of Appeals for the Second Circuit.<sup>1</sup> The parties jointly submit this letter as the tenth 90-day status update.

As we reported in our ninth status update filed on December 30, 2019, on February 25, 2019, the Second Circuit vacated the judgment of the United States Bankruptcy Court for the Southern District of New York, and remanded.<sup>2</sup> After denying defendant-appellee’s petition for a rehearing and a rehearing *en banc*,<sup>3</sup> on April 23, 2019, the Second Circuit granted defendant-appellee’s motion for a stay of the issuance of the mandate pending the filing of its Petition for a Writ of Certiorari (the “Petition”) in the Supreme Court of the United States.<sup>4</sup> The defendant-

---

<sup>1</sup> Order, *Picard v. ABN AMRO Bank N.V. (presently known as The Royal Bank of Scotland, N.V.)*, No. 17-cv-07476 (S.D.N.Y. Oct. 10, 2017), ECF No. 8.

<sup>2</sup> Op., *In re Irving H. Picard, Trustee for the Liquidation of Bernard L. Madoff Inv. Sec., LLC*, No. 17-2992 (2d Cir. Feb. 25, 2019), ECF No. 1311-1.

<sup>3</sup> Order, *In re Irving H. Picard, Trustee for the Liquidation of Bernard L. Madoff Inv. Sec., LLC*, No. 17-2992 (2d Cir. Apr. 3, 2019), ECF No. 1408.

<sup>4</sup> Order, *In re Irving H. Picard, Trustee for the Liquidation of Bernard L. Madoff Inv. Sec., LLC*, No. 17-2992 (2d Cir. Apr. 23, 2019), ECF No. 1503.

Honorable Analisa Torres  
March 31, 2020  
Page 2

appellees filed the Petition on August 29, 2019.<sup>5</sup> After the parties briefed the Petition, on December 9, 2019, the Supreme Court invited the Solicitor General to file a brief expressing the views of the United States.<sup>6</sup>

There is nothing new to report from our December 30, 2019 status update. The Solicitor General still has not yet responded to the Supreme Court's request and the Petition remains pending. Under Federal Rule of Appellate Procedure 41(d)(2)(B), the stay of the issuance of the mandate will continue through the Supreme Court's final disposition of the Petition. *See* F.R.A.P. 41(d)(2)(B).

Please advise if Your Honor has any questions or wishes to hear further from the parties on this matter.

Sincerely,

/s/ David J. Sheehan

David J. Sheehan  
Partner

cc: Counsel for ABN AMRO Bank N.V. (via ECF)

---

<sup>5</sup> Letter from Appellee ABN AMRO Bank N.V., *In re Irving H. Picard, Trustee for the Liquidation of Bernard L. Madoff Inv. Sec., LLC*, No. 17-2992 (2d Cir. Sept. 3, 2019), ECF No. 1547.

<sup>6</sup> Docket, *HSBC Holdings PLC v. Picard*, No. 19-277 (S.Ct. Dec. 9, 2019).